

## **RESOLUTION NO. 2016-40**

### **RESOLUTION OF THE TOWN OF WHITESTOWN, INDIANA APPROVING AND AUTHORIZING THE EXECUTION OF A FINANCING LEASE AND A BASE LEASE RELATING TO THE TOWN OF WHITESTOWN, INDIANA PERRY INDUSTRIAL PARK ECONOMIC DEVELOPMENT AREA NO. 1**

WHEREAS, the Town Council of the Town of Whitestown, Indiana (the “Council” and the “Town”, respectively) has been presented with a proposed lease between the Town and the Whitestown Redevelopment Authority (the “Authority”) attached hereto as Exhibit A and incorporated herein by reference (the “Base Lease”) for the lease of certain roads and related real property of the Town by the Authority (the “Base Leased Premises”); and

WHEREAS the Council has been advised that the Authority intends to refinance, finance and construct certain improvements (collectively, the “Projects”), all or a portion of which may be or will be located on or connected to the Base Leased Premises and which are or will be in or directly serving or benefitting the Perry Industrial Park Economic Development Area No. 1 in the Town (the “Area”), as created by the Whitestown Redevelopment Commission (the “Commission”), and which include but are not limited to the acquisition, construction, and equipping of a new fire station; and

WHEREAS, in connection with the refinancing, financing and construction of the Projects, the Authority will lease the Base Leased Premises to the Commission pursuant to and in accordance with Indiana Code 36-7-14 and 14.5 and the hereinafter defined Financing Lease; and

WHEREAS, pursuant to Indiana Code 36-1-11-8 and 36-7-14.5-18, the Town may, with the approval of the Commission, lease the Base Leased Premises to the Authority pursuant to the Base Lease upon such terms and conditions as may be agreed upon by the Town and the Authority; and

WHEREAS, the Council has been presented with a proposed lease between the Commission and the Authority attached hereto as Exhibit B and incorporated herein by reference (the “Financing Lease”) for the lease by the Commission of the Base Leased Premises from the Authority; and

WHEREAS, the Council has been advised that the Commission, following a public hearing thereon, will consider for adoption a resolution authorizing the execution of the Financing Lease, finding, pursuant to Indiana Code 36-7-14.5-14, that the lease rental payments to be paid by the Commission to the Authority pursuant to the Financing Lease are fair and reasonable and finding, pursuant to Indiana Code 36-7-14-25.2, that the use of the Projects throughout the term of the Financing Lease will serve the public purpose of the Town and is in the best interest of its residents; and

WHEREAS, the Council desires to approve the Financing Lease, subject to the condition that the aforementioned resolution of the Commission is adopted by the Commission pursuant to Indiana Code 36-7-14-25.2 which provides that any lease approved by a resolution of the Commission must be approved by an ordinance or resolution of the fiscal body of the unit; and

WHEREAS, the Council desires to approve the Base Lease, subject to the condition that the Authority uses a portion of the proceeds of its hereinafter defined Bonds to effect the refunding of the Town's Economic Development Tax Increment Revenue Bonds, Series 2010 (Perry Industrial Park and Whitestown Crossing Projects) (the "2010 Bonds"); and

WHEREAS, to facilitate the sale of and secure the bonds to be issued by the Authority to finance the costs of the Project (the "Bonds"), the Commission will pledge to the Authority for payment of lease rentals under the Financing Lease (i) tax increment revenues from the Area (the "TIF Revenues") and, to the extent TIF Revenues are not sufficient, (b) a special benefits tax levied under Indiana Code 36-7-14-27 (the "District Tax");

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, THAT:

1. The Council hereby approves the Base Lease and the Financing Lease, subject to the condition that the Commission approves the Base Lease and Financing Lease by resolution of the Commission (the "Commission Resolution"). The Secretary of the Commission is hereby directed to file a copy of the Commission Resolution with the Clerk-Treasurer upon its adoption by the Commission. Upon receipt, the Clerk-Treasurer shall and is hereby directed to affix a copy of the Commission Resolution to this resolution.

2. In accordance with Indiana Code 36-7-14-25.2(c), the Council hereby approves the following provisions in connection with the Financing Lease and the Bonds: (i) the maximum annual lease rental for the Financing Lease is \$2,300,000; (ii) the maximum interest rate for the Bonds in connection with the Financing Lease is 5% per annum and such Bonds may be subject to mandatory sinking fund redemption and/or optional redemption as determined by the Authority, with the advice of its financial advisor, upon the issuance of the Bonds; (iii) the proceeds of the Bonds may, if necessary, be used to fund capitalized interest on the Bonds; and (iv) the maximum term of the Financing Lease is twenty-one (21) years.

3. The Base Lease will serve the public purposes of the Town and is in the best of interests of the Town's residents. In light of the Projects to be refinanced, financed and constructed by the Authority, the rental provided under the Base Lease is fair and reasonable, and the execution of the Base Lease is necessary and wise.

4. Subject to prior approval of the Commission, the President of the Town Council and the Clerk-Treasurer of the Town are authorized to (i) execute and attest the Base Lease and (ii) approve any such amendments, additions, deletions and changes to the Base Lease as they deem necessary or advisable, and their approval shall be signified by their execution of said Base Lease.

5. The Council hereby approves the pledge by the Commission of TIF Revenues and to the extent TIF Revenues are ever insufficient, the District Tax, for payment of rentals due under the Financing Lease.

6. The Council hereby approves the refinancing of the 2010 Bonds by the Authority with proceeds of its Bonds.

7. All other ordinances, resolutions or parts thereof in conflict with the provisions and the intent of this resolution are hereby repealed.

8. This resolution shall be in full force and effect from and after its passage.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2016, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays.

TOWN OF WHITESTOWN, INDIANA  
TOWN COUNCIL

\_\_\_\_\_  
Eric Miller, President

\_\_\_\_\_  
Susan Austin, Council Member

\_\_\_\_\_  
Clinton Bohm, Council Member

\_\_\_\_\_  
Jeff Wishek, Council Member

\_\_\_\_\_  
Kevin Russell, Council Member

ATTEST:

\_\_\_\_\_  
Matt Sumner, Clerk-Treasurer

**EXHIBIT A**

*Form of Base Lease*

**EXHIBIT B**

*Form of Financing Lease*